

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

IAN M. QUARMBY,

Plaintiff,

v.

21-CV-671-LJV-JJM
DECISION & ORDER

REXON INDUSTRIAL CORPORATION
LTD., *et al.*,

Defendants.

On February 3, 2021, the plaintiff, Ian M. Quarmby, commenced this action in New York State Supreme Court, Niagara County. Docket Item 1-2. Quarmby alleges that he suffered severe injuries to his hand while operating a table saw manufactured by defendant Rexon Industrial Corporation Ltd. (“Rexon”). *Id.*

On May 25, 2021, the defendants removed the case to this Court.¹ Docket Item 1. About three months later, Rexon moved to dismiss the complaint under Federal Rule of Civil Procedure 12(b)(2).² Docket Item 13. Quarmby responded to that motion on January 21, 2022, Docket Item 22, and Rexon replied on February 16, 2022, Docket

¹ In addition to Rexon Industrial Corporation Ltd., Quarmby also named Rexon Corporation as a defendant. Docket Item 1-2. The parties agree that Rexon Corporation is not a proper defendant to this case, see Docket Item 44 at 1 n.3, and this Court therefore deems any claims against Rexon Corporation to be abandoned and dismisses those claims.

² Rexon also moved for dismissal under Federal Rule of Civil Procedure 12(b)(5). Docket Item 13. At oral argument before Judge McCarthy, Rexon confirmed that it no longer sought dismissal on that ground. See Docket Item 44 at 1 n.2.

Item 29. In the meantime, the parties conducted jurisdictional discovery. See Docket Item 19.

After the motion was “deemed withdrawn” for several months so that the parties could pursue settlement negotiations, see Docket Item 37, on August 24, 2022, it was “deemed reinstated” and “taken under advisement without additional briefing,” see Docket Item 43. About three months later, United States Magistrate Judge Jeremiah J. McCarthy, to whom this case was referred under 28 U.S.C. § 636(b)(1)(A) and (B), issued a Report and Recommendation (“R&R”) finding that Rexion’s motion to dismiss under Rule 12(b)(2) should be granted. Docket Item 44. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The court must review *de novo* those portions of a magistrate judge’s recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy’s R&R, as well as the parties’ submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy’s recommendation to grant Rexion’s motion to dismiss.

For the reasons stated above and in the R&R, Raxon's motion to dismiss, Docket Item 13, is GRANTED. The Clerk of the Court shall close the case.

SO ORDERED.

Dated: December 19, 2022
Buffalo, New York

/s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE